



and said she just wanted to go home. Claimant does not allege any trauma precipitated her onset of symptoms.

For a claim to be compensable, claimant must establish personal injury by accident arising out of and in the course of employment. K.S.A. 44-501(a). For a claim to arise "out of" employment, its cause or origin must develop out of the nature, conditions, obligations and incidence of employment. Hormann v. New Hampshire Ins. Co., 236 Kan. 190, 689 P.2d 837 (1984). The facts presented do not lend themselves to such a finding.

It is not always necessary for an injury to be caused by trauma or some form of physical force before it can be found compensable. See Demars v. Rickel Manufacturing Corporation, 223 Kan. 374, 573 P.2d 1036 (1978). However, when an injury is attributable to a personal condition of the employee, and no other factors contribute to the injury, the injury is not compensable. Martin v. Unified School District No. 233, 5 Kan. App. 2d 298, 615 P.2d 168 (1980) and Bennett v. Wichita Fence Co., 16 Kan. App. 2d 458, 824 P.2d 1001, rev. denied 250 Kan. 804 (1992).

K.S.A. 1995 Supp. 44-508(e) provides:

"An injury shall not be deemed to have been directly caused by the employment where it is shown that the employee suffers disability as a result of the natural aging process or by the normal activities of day-to-day living."

In workers compensation proceedings the claimant bears the burden of proof to establish her claim. "Burden of proof" is defined in K.S.A. 1995 Supp. 44-508(g) as:

"[T]he burden of a party to persuade the trier of facts by a preponderance of the credible evidence that such party's position on an issue is more probably true than not true on the basis of the whole record."

The burden of proof is "on the claimant to establish the claimant's right to an award of compensation and to prove the various conditions on which the claimant's right depends. In determining whether the claimant has satisfied this burden of proof, the trier of fact shall consider the whole record." K.S.A. 44-501(a).

Based upon the record as it currently exists, the Appeals Board finds claimant has not met her burden of proving that she sustained personal injury by accident arising out of her employment.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the April 29, 1996 preliminary hearing Order of Jon L. Frobish should be, and is hereby, affirmed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of August 1996.

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BOARD MEMBER

c: Irene Rainey, Meade, KS  
Shirla R. McQueen, Liberal, KS  
Jon L. Frobish, Administrative Law Judge  
Philip S. Harness, Director